

IN THE COURT OF THE SUBORDINATE JUDGE, SATHYAMANGALAM.

**PRESENT: Tmt.K.S.Shabeena, B.A., B.L.
Subordinate Judge, Sathyamangalam.**

Tuesday, the 03rd day of March 2026
(2056 Thiruvalluvarandu Visuvavasuvu varudam Maasi Thingal 19th day)

**I.A.No.1/2023 in
O.S.No.440 of 2023**

Mangalamma

... Petitioner/Plaintiff

Vs

1. Mahadevasamy
2. Kaalappa
3. Dhundappa

... Respondents/Defendants

This petition came up for final hearing before me on 04.03.2026 in the presence of Thiru.V.C.Ajeethkumar, Advocate for the Petitioners and Respondents called absent set ex-parte and upon perusing the entire case records, on hearing the arguments of petitioner side, and having stood over for consideration till this date, this court delivered the following:

ORDER

The petitioner had filed this petition under order 26 rule 9 to pass an order to appoint a Hon'ble Court commissioner along with the Taluk Surveyor to ascertain the encroachment committed by the respondents on the suit property and measure the suit property and to fix the boundary line and to file his detailed report and plan.

2. The averments of the petition in brief:

1. The petitioner is the Plaintiff in this suit. The petitioner has filed above suit against the respondents to declaration and Separate possession. The respondents are 3rd parties to the petitioner. The respondents are the landowners adjacent to the petition property allotted to the petitioner. The suit properties are originally belonged to owned by petitioner's brother Nagaraj. The above said Nagaraj sold the land to one Chennanjappa on 19.09.1962 as per the sale deed registered in the Thalavadi Sub Registrar Office Document No.439/1962. Later, Nagaraj acquired the said properties from the said Chennanjappa on 25.02.1977 as per the sale deed registered in Thalavadi Sub Registrar Office Document No.87/1977.

2. In this situation, the petitioner's brother Nagaraj left the village 40 years ago without getting married and never returned. Therefore, assuming that he was dead, they obtained a death certificate for Nagaraj and a legal heirs certificate stating that the petitioner and his sister were Nagaraj's heirs. Subsequently, the petitioner and his sister, the heirs of Nagaraj, acquired the petition properties through a partition deed registered in the Thalavadi Sub registrar Office Document No.95/2022 on 21.01.2022, allotting the Schedule B property to the petitioner and changing the name in the revenue documents arising therefrom, and the petitioner was enjoying it possession.

3. In this situation, Nagaraj suddenly returned home in November 2022. Therefore, the petitioner and Nagaraj jointly filed a petition at the Thalavadi Taluk Office seeking cancellation of Nagaraj's death certificate and legal heirs certificate.

After a full hearing of the petition, Nagaraj's death certificate and legal heirs certificate were cancelled on 16.02.2023. Subsequently, Nagaraj admitted that he did not want any share in the property as per the partition deed executed between the petitioner and his sister and issued a partition release deed to the petitioner on 20.02.2023 as per Thalavadi Sub Registrar Office Document No.296/2023. The petitioner is enjoying a peaceful possession in the petition. In this situation, the 2nd respondent acquired a plot of land measuring 18 cents in the upper part of the petition property allotted to the petitioner from the 1st respondent and his father Madhappa, as per the sale deed registered at the Thalavadi Registrar's Office on 01.09.2003, Document No. 564/2003.

4. In the boundaries of the suit property in the sale deed, instead of indicating the southern boundary as the property allotted to the petitioner, they falsely stated that the remaining land belonged to the 1st respondent and his father. By misrepresenting the boundary mentioned in the sale deed, the respondents, with the malicious intention of usurping the petition property allotted to the petitioner, on 10.03.2023, destroyed the boundary between the petition property and the property of the 2nd respondent and occupied approximately 1 acre of land above the petition property allotted to the petitioner.

5. The respondents have no rights or interests in the suit property. Hence to appoint a Hon'ble Court commissioner along with the Taluk Surveyor to ascertain the encroachment committed by the respondents on the suit property and measure the suit property and to fix the boundary line. The commissioner report and plan will be

helpful to this Hon'ble Court to arrive at a fair and reasonable conclusion. Otherwise, the petitioner will be put to irreparable loss and hardship.

3. Despite service of summons, the defendant failed to appear before this Court and was set ex parte on 05.08.2025.

4. Points For Consideration:

1. Whether the petition is allowed or not?:

5. Points:

5.1. Heard. This Court had cautiously scrutinized the petition, affidavit filed by the petitioner, and the documents marked before this court.

5.2. The dispute between the parties to the identification, measurement, and boundary demarcation of the suit property situated at Thiginarai Village, Thalavadi Taluk.

5.3. The plaintiff has alleged the respondents with the instigation of his close relatives, he has been threatening to prevent and obstruct us and thereby encroached and tress passed in to the petition properties of us and now respondents are making hectic attempts to encroached upon over there and obstruct us and with dishonest intention, and has sought a local investigation to be conducted through a qualified Surveyor to identify and demarcate the boundaries of the property as per the title documents and revenue records.

5.4. The respondents/defendants had been called absent set exparte.

5.5. This court is satisfied that a local investigation is necessary to ascertain the identify, extent, and correct boundaries of the suit property for proper adjudication of the matter.

7. RESULT:

1. In the result, this petition is allowed.

2. Thiru.Prakash Balaji, Advocate is appointed as Advocate Commissioner.

3. The Commissioner shall be assisted by a qualified Surveyor, duly approved or recognized by the local revenue authorities, for the purpose of conducting an accurate demarcation of the suit property as per the title deeds, revenue records, and relevant documents provided by both parties.

4. The Commissioner shall:

- i) Issue prior notice to both parties regarding the date and time of the local investigation.
- ii) Visit the property with the qualified Surveyor.
- iii) Carryout measurements, and demarcation of boundaries with reference to survey numbers, adjoining properties, and available records.
- iv) Prepare a plan with specific measurements and indicate any encroachment or overlapping of boundaries.
- v) Record statements of parties present, if necessary.
- vi) Take photographs, if required, to support the findings.

5. The remuneration of the Advocate Commissioner is fixed at Rs.10,000/-

respectively, to be initially borne by the plaintiff, which shall be costs in the cause.

6. Both parties are directed to cooperate with the Commissioner and the Surveyor during the proceedings. Any obstruction or non-cooperation shall be dealt with in accordance with law.
7. Submit a detailed report along with the surveyors certified plan on or before 05.06.2026.

Dictated by me to the Steno typist, typed by her in the Computer directly, corrected and pronounced by me in open court on this the 03rd day of March 2026.

Subordinate Judge,
Sathyamangalam.

Petitioner's side witnesses and documents:-	NIL
Respondent's side Witnesses and documents:-	NIL

Subordinate Judge,
Sathyamangalam.